

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

JOSE A. CRUZ-KERKADO, et al.,

Plaintiffs,

v.

COMMONWEALTH OF PUERTO RICO,  
et al.,

Defendants.

Civil No. 16-2748 (ADC)

ORDER

The Court **DENIES** plaintiffs' Motion for Reconsideration, **ECF No. 74**, and Motion Submitting Documents in Support of Reconsideration, **ECF No. 76**, in which plaintiffs request that the Court reconsider its Opinion and Order at **ECF No. 72**. Defendants have not filed a response in opposition.

Motions for reconsideration are not explicitly authorized by the Federal Rules of Civil Procedure, but courts generally adjudicate post-judgment motions challenging the correctness of a judgment under Rule 59(e) when such motion is filed within twenty-eight days of the entry of judgment. *See Castro-Cruz v. Municipio de Caguas*, 2017 WL 5152175, \*2 (D.P.R. May 24, 2017) (ADC) (citing Fed. R. Civ. P. 59(e); *Companion Health Servs., Inc. v. Kurtz*, 675 F.3d 75, 87 (1st Cir. 2012)). Consequently, the grounds for granting a motion to reconsider under Rule 59(e) are limited to "manifest errors of law or fact, newly discovered evidence or previously unavailable

evidence, prevention of manifest injustice, or an intervening change in controlling law.” *Id.* (citing *Marie v. Allied Home Mortgage Corp.*, 402 F.3d 1, 7, n.2 (1st Cir. 2005)).

Plaintiffs motion for reconsideration amounts to a re-arguing of the claims asserted in the filings ruled upon in the Court’s Opinion and Order granting dismissal without prejudice. **ECF No. 72.** Plaintiffs misstate the Court’s ruling with respect to standing and the documents plaintiffs submit in support of their motion do not constitute “newly discovered evidence.” The appended document consists of a rehashing of claims already carefully considered by the Court.<sup>1</sup> **ECF No. 74-1.**

Furthermore, plaintiffs’ supplemental motion submitting two additional documents in support of reconsideration, **ECF No. 76**, asserts that the Court’s ruling “unjustly denied [them] an opportunity to conduct discovery,” a claim this Court finds fairly disingenuous given plaintiffs’ filing of a motion for summary judgment before the parties’ filed scheduling memoranda. **ECF No. 63.** In support of reconsideration plaintiffs also submit a document in Spanish, which as plaintiffs’ are aware, cannot be considered by this Court without an accompanying English translation. *See* Loc. R. 5(g). Additionally, plaintiffs submit for reconsideration an article from the Federal Bar Association’s Summer 2016 publication that the undersigned authored, noting that this document was appended to their original complaint and

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<sup>1</sup> The document appended to plaintiffs’ motion for reconsideration is the same document that plaintiffs moved for leave to file in opposition to defendants’ motions to dismiss. **ECF Nos. 58, 74-1.** The Court granted plaintiff leave to file the document on December 5, 2017, ordering that “Plaintiff shall file its motion as a separate docket entry.” **ECF No. 66.** Plaintiffs never filed this document as a separate docket entry, as required.

constitutes proof that their claims have merit. This document has no bearing on the outcome of the case and, it should be noted, plaintiffs' original complaint was superseded by their amended complaint. **ECF No. 29.** See *Brait Builders Corp. v. Massachusetts, Div. of Capital Asset Mgmt.*, 644 F.3d 5, 9 (1st Cir. 2011). This document, as well as most of the exhibits submitted with plaintiffs' original complaint, the majority of which are also in Spanish, were not resubmitted with their amended complaint.

Plaintiffs' motion to reconsider constitutes a rehashing of arguments already thoughtfully considered by this Court in ruling on the defendants' motions to dismiss. **ECF No. 72.** "[A] party cannot use a Rule 59(e) motion to rehash arguments previously rejected." *Soto-Padró v. Pub. Bldg. Auth.*, 675 F.3d 1, 9 (1st Cir. 2012). Accordingly, plaintiff's motions for reconsideration at **ECF Nos. 74, 76** are **DENIED**.

**SO ORDERED.**

At San Juan, Puerto Rico, on this 20th day of August, 2018.

**S/AIDA M. DELGADO-COLÓN**  
**United States District Judge**